

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DARIO SCOTT,)	
)	
Plaintiff,)	4:04cv3347
)	
vs.)	ORDER to SHOW CAUSE
)	
NEBRASKA DEPARTMENT OF)	
CORRECTIONAL SERVICES, et al.,)	
)	
Defendants.)	

This matter is before the court sua sponte. Fed. R. Civ. P. 4(m) establishes the following time limit for service of process on the defendants in a civil case:

(m) Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. This subdivision does not apply to service in a foreign country pursuant to subdivision (f) or (j)(1).

In an Order on Initial Review, the court established the deadline for service of process in this case as 120 days after entry of that Order. The deadline has now expired, and the court's records show that the plaintiff did not return the summons forms provided to him to complete and return to the court so that timely service of process could be accomplished by the U.S. Marshal on the plaintiff's behalf. The plaintiff was warned that failure to obtain timely service on the defendants could result in dismissal of this matter, without prejudice.

THEREFORE, IT IS ORDERED:

1. That by May 27, 2005, the plaintiff shall file a pleading¹ entitled Response to Order to Show Cause explaining any reason the plaintiff may have why the above-entitled case should not be dismissed without prejudice for failure to obtain timely service of process on any defendant; and

¹Any pleading filed with the court may be handwritten, if legible.

2. That in the absence of a timely and sufficient Response to Order to Show Cause, this case may be subject, without further notice, to dismissal without prejudice pursuant to Fed. R. Civ. P. 4(m) by District Judge Richard G. Kopf.

DATED this 9th day of May, 2005.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge